

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

WILLIE J. HUDSON,

Plaintiff,

v.

Case No. 06-C-1245

**JO ANNE BARNHART,
Commissioner of Social Security,**

Defendant.

DECISION AND ORDER

On December 4, 2006, Willie Hudson filed a complaint to review a final decision of the Commissioner of Social Security. He accompanied his complaint with a petition to proceed *in forma pauperis* (“IFP”), in which he claimed that he was unable to pay the \$350.00 filing fee.

After reviewing Hudson’s affidavit in support of his petition for IFP, the Court determined that Hudson was more than able to pay his filing fee. Therefore, on December 7, 2006, the Court dismissed Hudson’s case without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(A). Eight days later, on December 15, 2006, Hudson paid the clerk’s office \$350.00, presumably with the understanding that his payment would be accepted as a filing fee and would reopen the case. However, Hudson did not accompany his payment with a motion to vacate this Court’s judgment dismissing his case, nor does the Court discern any reason to do so.

Section 1915(e)(2)(A) provides that “the court *shall* dismiss the case at any time if the court determines that . . . the allegation of poverty is untrue.” 28 U.S.C. § 1915(e)(2)(A) (emphasis added). This requirement “does not mandate that the district court dismiss [a petitioner’s] claim if it finds that certain assertions in his affidavit are untrue; instead, it requires the district court to dismiss the claim if it finds that [the petitioner] is not sufficiently poor to qualify for in forma pauperis status” *Lee v. McDonald’s Corp.*, 231 F.3d 456, 459 (8th Cir. 2000). The Court’s order dismissing this case was a straightforward application of the statute, and thus there is no basis to vacate its judgment and reopen this case. The clerk is directed to return to Hudson the \$350.00 that he paid on December 15, 2006.

NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT:

The Clerk is directed to return to Hudson the \$350.00 that he paid on December 15, 2006.

Dated at Milwaukee, Wisconsin, this 19th day of December, 2006.

BY THE COURT:

s/Rudolph T. Randa
HON. RUDOLPH T. RANDA
Chief Judge